IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1720 of 2007

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PATEL JAYSHREEBAHEN WIFE OF PIYUSHKUMAR - Applicant(s)
Versus
STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :
MR SURESH S PATEL for Applicant(s) : 1,
PUBLIC PROSECUTOR for Respondent(s) : 1,
None for Respondent(s) : 2 - 5.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 11/09/2007

ORAL JUDGMENT

1. By way of present petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction and/or

order directing to cancel the passport of the respondent No.4 bearing passport No. E0-857930 by directing American Embassy or respondent No.2 – Regional Passport Authority, Ahmedabad. It is also further prayed for an appropriate order directing the respondent No.2 to issue passport immediately in connection with the passport application No.B/7838/04 filed by the petitioner. Petitioner has also further prayed for an appropriate order for further investigation in connection with complaint being I CR No.5 of 2005 registered with Khedbrahma Police Station which is now registered as Criminal Case No. 490 of 2005 pending in the Court of Learned JMFC, Khedbrahma.

2. At the outset, it is required to be noted that the present Special Criminal Application has been filed by the petitioner for the relief which is sought in para – 19(A), which cannot be granted as there was no such relief sought from the appropriate authority. Whether any direction can be issued directing the American Embassy to

cancel the passport of respondent No.4 being passport No.E0-857930 regarding it no submission has been made. Prima facie, it appears that such a relief cannot be granted by this Court in exercise of powers under Article 226 of the Constitution of India, more particularly, when there was no such relief sought. So far as prayer in terms of para – 19(B) is concerned, it is required to be noted that earlier the petitioner had preferred one Special Civil Application No. 23465 of 2006 before the learned Single Judge of this Court for the very prayer and the learned Single Judge by its judgment dated 6.3.2007 directed the passport authorities to consider and take decision on the application preferred by the petitioner in accordance with the provisions of the Passport Act; 1967 as expeditiously as possible and even while disposing of the said petition, the learned Single Judge also imposed costs of Rs.5,000/-. It appears from the record that thereafter the Regional Passport Authority has considered the application submitted by the petitioner and the

petitioner is also communicated the decision vide communication dated 1.6.2007 – Annexure – H to the petition. It is also required to be noted that Annexure – H, communication by the Regional Passport Authority has not been challenged by the petitioner and still the petitioner has prayed for an appropriate order directing the respondent No.2 – Passport Authority to issue passport. In absence of the challenge to Annexure – H and even otherwise, petitioner is not entitled to the relief as prayed for considering Annexure – H decision which is pursuant to the order passed by the learned Single Judge in the aforesaid Special Civil Application. So far as relief for further investigation is concerned, it appears to the Court that after thorough investigation, the charge-sheet has been filed by the Investigating Officer as far back as in the year 2006 and the present application / petition has been filed for further investigation in the month of August – 2007 without there being any justification. It also appears from the record that the lady

against whom allegations are made is settled in America and is not available and the petitioner wants that further investigation be carried out qua the said lady which is not available and who has settled in America. As such, no case is made out for further investigation hence, there is no substance in the present petition and the same is required to be dismissed and is accordingly dismissed with exemplary costs of Rs.5,000/-.

(M.R.Shah, J.)

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